

No. 9/6/86-6Lab/1856. - In pursuance of the provisions of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Ambala in respect of the dispute between the workman and the management of Haryana Roadways, Ambala City.

IN THE COURT OF SHRI V.P. CHAUDHARY, PRESIDING OFFICER, LABOUR COURT,  
AMBALA

Ref. No. 300 of 1984

(Old No. 142 of 1982)

SHRI AMRIK SINGH, WORKMAN AND THE MANAGEMENT OF THE HARYANA  
ROADWAYS, AMBALA CITY

Present : Shri Rajeshwar Nath for the workman.

Shri A.S. Rathi for the respondent.

#### AWARD

The Hon'ble Governor of Haryana in the exercise of powers conferred, *vide* clause (C) of sub-section (i) of section 10 of the Industrial Disputes Act, 1947 originally referred dispute between Shri Amrik Singh workman and the G.M., Haryana Roadways, Ambala City to Labour Court, Faridabad. The terms of the reference are as under :-

Whether the termination of services of Shri Amrik Singh was justified and in order, if not to what relief is he entitled ?

On constitution of Labour Court at Ambala in April, 1984 this reference was received by transfer.

Amrik Singh workman through his demand notice alleged that he was employed as a Conductor in the respondent management since 1973 up to 9th October, 1979. G.M. Haryana Roadways, Ambala City terminated his services on 9th October, 1979 without holding any enquiry in a most illegal manner as well as against principles of natural justice. He has prayed for his reinstatement with continuity in service and with full back wages.

Respondent management appeared contested this reference contending that allegations of Amrik Singh workman are wrong and baseless. In fact on 12th August, 1977 Amrik Singh was on duty on Bus No. 2365 bound for Nangal to Delhi which was inspected by the inspecting squad and found five passengers travelling without tickets one passenger boarded bus from Ambala Cantt for Delhi another from Karnal for Delhi and three passengers from Pipli to Panipat. They had paid their ticket charges to Shri Amrik Singh but he did not issue tickets to them and thus committed fraud of Rs. 38.55. It was also contended that on 1st September, 1977 Amrik Singh deposited Rs. 859.50 instead of Rs. 980.25 and thus temporarily embezzled Rs. 128.30. It was also contended that a regular enquiry Officer was appointed who conducted enquiry in a proper manner. Amrik Singh afforded an opportunity to cross-examination the witnesses thereafter he led defence evidence. G.M. after affording personal hearing to Shri Amrik Singh passed his termination order.

On the pleading of the parties the following issues were framed by my Ld. predecessor for the just decision of this case.

#### Issues

1. Whether the domestic enquiry was conducted by the respondent is proper and fair; if so to what effects.
2. As per reference.
3. Relief.

I have heard Shri Rajeshwar Nath for workman and Shri A.S. Rathi Law Officer for respondent and have pursued the oral and documentary evidence placed on the file. My issue-wise findings are as under :

Issue No. 1 and 2 :

Issue No. 1 and 2 both are inter linked so taken up together for discussions and findings.

Management examined MW-1 Shri H.P. Chaudhary who stated that from August 1979 uptill February, 1982 he remained posted C.M. Haryana Roadways, Ambala City. On the allegations of embezzlement against Amrik Singh an Inquiry Officer was appointed who conducted the enquiry in a proper way and then submitted his report to him. He after going through the enquiry file proceedings and after affording personal hearing to Shri Amrik Singh. He passed termination order of service of Amrik Singh.

MW-2 is Shri Raghbir Singh Kundu Traffic Manager stated that he conducted enquiry against Amrik Singh. Notice of this enquiry along with charge sheet, list of allegations, list of witness was given to Amrik Singh. Witnesses who appeared in the witness from the side of the management were cross-examined by Amrik Singh. Thereafter; Amrik Singh examined one witness in his defence. He reached at the conclusion that Amrik Singh had made embezzlement of public funds thereafter he submitted his report to G.M. This fact is evident from order Ex M-1. MW-3 Shri Suresh Kumar stated that he is incharge of record room. The enquiry files are usually consigned to him, this file was also consigned to him but later on it was lost and has not yet been traced. MW-4 Shri Surjeet Kumar stated that he is incharge of establishment branch service of Amrik Singh were terminated thereafter he filed appeal to S.T.C. who called for comments of the departments. Copy of his comments is Ex. M-2, copy of appeal is Ex. M-3, copy of forwarding letter is Ex. M 4. The above documents were despatched along with enquiry file to the Head Office of S.T.C. but never reached to the office of the S.T.C. thereafter a letter Ex. M-5 he received from the office of S.T.C.

MW-5 Shrimati Pushpa Devi Clerk stated that she was posted as a despatch Clerk. Ex. M-1 to M-4 and along with enquiry file were lying on her table for despatch to the S.T.C. office which she put in an envelop. In the meantime Shri Amrik Singh turned up, he wanted to see enquiry file but she refused to allow to inspect the enquiry file and later on Shri Amrik Singh expressed anguish. She also left her seat for some time and when she returned she found that the envelop containing the file and another dak were not on the table she thought that the dak had been taken by the peon who used to take in person to the office of the S.T.C. and later on it was revealed that the concerned dak along with the enquiry file did not reach the office of S.T.C.

MW-6 Shri Surjeet Kumar was again examined, he stated that workman and his A.R. moved an application to G.M. that the workman may be reinstated provisionally, he will claim his arrears after the decision of the Labour Court because enquiry file has been lost. Inquiry into loss of enquiry file was to take a lot of time keeping in view these circumstances he was reinstated but later on he was again terminated.

After going through the evidence which is available on the file one fact is clear that I could not have benefit of originality enquiry file the facts are clear from evidence of Smt. Pushpa Devi despatch clerk who stated that on the fateful day Amrik Singh approached her and requested to inspect the enquiry file but she did not allow him to do so and thereafter the enquiry file was lost and it is not available up till this day which clearly shows either the enquiry file along with the other dak had been taken away by Shri Amrik Singh himself or it was Amrik Singh behind this mischief, possibility of these two facts cannot be ruled out because no body else could be interested in making loss of file and other dak.

Copies of documents placed on the file and statement of enquiry Officer Shri Raghbir as well as statement of Shri H.P. Chaudhary both show that proper procedure for conducting enquiry was followed by the Inquiry Officer. Shri Amrik Singh cross-examined the witnesses. He also led defence evidence. G.M. Shri H.P. Chaudhary afforded personal hearing to Shri Amrik Singh before passing termination order upon him, so this shows that proper and fair enquiry was conducted by the respondent management and termination order is just and correct. So both these issues are decided against the workman in favour of management.

I pass award regarding the controversy between the parties accordingly.

Dated 22nd January, 1986.

V.P. CHAUDHARY,

Presiding Officer,  
Labour Court, Ambala.

Endst. No. 284, dated 30th January, 1986.

Forwarded (four copies) to the Financial Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

V. P. CHAUDHARY,

Presiding Officer,  
Labour Court, Ambala.